

PATENT COOPERATION TREATY
PCT
INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY
(Chapter II of the Patent Cooperation Treaty)
(PCT Article 36 and Rule 70)

Applicant's or agent's file reference 646210C	FOR FURTHER ACTION		See Form PCT/IPEA/416
International application No. PCT/AU2004/001069	International filing date (<i>day/month/year</i>) 10 August 2004	Priority date (<i>day/month/year</i>) 15 August 2003	
International Patent Classification (IPC) or national classification and IPC Int. Cl. ⁷ A63B 69/36			
Applicant SWING MASTER GOLF PTY LIMITED et al			

1. This report is the international preliminary examination report, established by this International Preliminary Examining Authority under Article 35 and transmitted to the applicant according to Article 36.

2. This REPORT consists of a total of 4 sheets, including this cover sheet.

3. This report is also accompanied by ANNEXES, comprising:

a. ☐ (*sent to the applicant and to the International Bureau*) a total of sheets, as follows:

☐ sheets of the description, claims and/or drawings which have been amended and are the basis for this report and/or sheets containing rectifications authorized by this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions).

☐ sheets which supersede earlier sheets, but which this Authority considers contain an amendment that goes beyond the disclosure in the international application as filed, as indicated in item 4 of Box No. I and the Supplemental Box.

b. ☐ (*sent to the International Bureau only*) a total of (indicate type and number of electronic carrier(s)) , containing a sequence listing and/or table related thereto, in computer readable form only, as indicated in the Supplemental Box Relating to Sequence Listing (see Section 802 of the Administrative Instructions).

4. This report contains indications relating to the following items:

<input checked="" type="checkbox"/>	Box No. I	Basis of the report
<input type="checkbox"/>	Box No. II	Priority
<input type="checkbox"/>	Box No. III	Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
<input type="checkbox"/>	Box No. IV	Lack of unity of invention
<input checked="" type="checkbox"/>	Box No. V	Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
<input type="checkbox"/>	Box No. VI	Certain documents cited
<input type="checkbox"/>	Box No. VII	Certain defects in the international application
<input type="checkbox"/>	Box No. VIII	Certain observations on the international application

Date of submission of the demand 27 January 2005	Date of completion of the report 22 November 2005
Name and mailing address of the IPEA/AU AUSTRALIAN PATENT OFFICE PO BOX 200, WODEN ACT 2606, AUSTRALIA E-mail address: pct@ipaaustralia.gov.au Facsimile No. (02) 6285 3929	Authorized Officer PETER T. WEST Telephone No. (02) 6283 2108

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International application No.

PCT/AU2004/001069

Box No. I **Basis of the report**

1. With regard to the **language**, this report is based on the international application in the language in which it was filed, unless otherwise indicated under this item.

☐ This report is based on translations from the original language into the following language which is the language of a translation furnished for the purposes of:

☐ international search (under Rules 12.3 and 23.1 (b))

☐ publication of the international application (under Rule 12.4)

☐ international preliminary examination (under Rules 55.2 and/or 55.3)

2. With regard to the **elements** of the international application, this report is based on (*replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report*):

☐ the international application as originally filed/furnished

☒ the description:

pages **1 to 5** as originally filed/furnished

pages* received by this Authority on with the letter of

pages* received by this Authority on with the letter of

☒ the claims:

pages as originally filed/furnished

pages* **8 and 9** as amended (together with any statement) under Article 19

pages* received by this Authority on with the letter of

pages* received by this Authority on with the letter of

☒ the drawings:

pages **1 to 5** as originally filed/furnished

pages* received by this Authority on with the letter of

pages* received by this Authority on with the letter of

☐ a sequence listing and/or any related table(s) - see Supplemental Box Relating to Sequence Listing.

3. ☐ The amendments have resulted in the cancellation of:

☐ the description, pages

☐ the claims, Nos.

☐ the drawings, sheets/figs

☐ the sequence listing (*specify*):

☐ any table(s) related to the sequence listing (*specify*):

4. ☐ This report has been established as if (some of) the amendments annexed to this report and listed below had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).

☐ the description, pages

☐ the claims, Nos.

☐ the drawings, sheets/figs

☐ the sequence listing (*specify*):

☐ any table(s) related to the sequence listing (*specify*):

* If item 4 applies, some or all of those sheets may be marked "superseded."

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Box No. V Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement**1. Statement**

Novelty (N)	Claims 1 to 11	YES
	Claims	NO
Inventive step (IS)	Claims	YES
	Claims 1 to 11	NO
Industrial applicability (IA)	Claims 1 to 11	YES
	Claims	NO

2. Citations and explanations (Rule 70.7)

The following documents identified in the International Search Report have been considered for the purposes of this report:

D1 US 2003/0027656 A1 (KATSUYA) 6 February 200
D2 US 2002/0072427 A1 (CHANG) 13 June 2002
D3 US 5620376 A1 (HSU) 15 April 1997
D4 US 5580321 A (RENNHACK) 3 December 1996
D5 US 5527038 A (MABIE) 18 June 1996
D6 US 5082279 A (HULL et al.) 21 January 1992
D7 US 4541631 A (SASSE) 17 September 1985
D8 WO 1992/008521 A1 (DUFFY) 29 May 1992

Novelty (N)

None of the cited documents disclose the specific combination of features claimed and therefore the subject matter of claims 1 to 11 is new and meets the requirements of Article 33(2) PCT with regard to novelty.

Inventive Step (IS)

The principle of using flowable material for swing training or to vary the apparent weight (moment of inertia) during the swing of a golf club is well established in the art.

Documents D1 to D8 each disclose flowable material variously for these purposes either contained within the shaft and/or head of the club or in a container attached to the club or to a golf club handle.

However D3, D6, D7 and D8 are not relevant to the presently amended claims. D3 does not maintain a constant weight nor maintain a volume of flowable material during the golf swing because the material is ejected, and D6, D7 and D8 disclose chambers within the club rather than a reservoir attached to handle of a golf club.

With regard to the devices disclosed in D2, D4 or figure 3 of D1 it would be is also considered that it would be obvious to a person skilled in the art that if it was wished to actually strike a golf ball as part of the golf swing training that a golf head could be attached.

With regard to the devices disclosed in D3 or figure 7 of D1 it would be is also considered that it would be obvious to a person skilled in the art that the device could be attached to the shaft of the golf club in alternative ways such as being made in two halves.

[Continued in Supplemental Box]

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Supplemental Box

In case the space in any of the preceding boxes is not sufficient.

Continuation of: **Box No. V**

In general it is considered that the claimed device differs from the devices disclosed in each of D1 to D4 only in arrangements that are merely matters of design choice when the general technical knowledge about the state of the art is used. Therefore the subject matter of claims 1 to 11 is obvious and does not meet the requirements of Article 33(3) PCT with regard inventive step.